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6 HON. THOMAS S. ZILLY  
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IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

12 MARY JANE MEUNIER,

13 Plaintiff,

14 vs.

15 GROUP HEALTH COOPERATIVE and  
16 AETNA LIFE INSURANCE  
17 COMPANY,

18 Defendants.

19 Case No. 2:13 cv-01046-TSZ

20 REPLY BRIEF SUPPORTING  
21 PLAINTIFF'S SUMMARY JUDGMENT  
22 MOTION AGAINST DEFENDANTS  
23 GHC AND AETNA

24 NOTE FOR MOTION CALENDAR:  
25 Friday, March 21, 2014

26 As an employee of GHC, David Meunier had to actively work 30 continuous days  
27 in order to enroll in GHC's life insurance benefit plan. David enrolled in GHC'S life  
28 insurance coverage through Aetna effective January 1, 2009. Therefore, it reasonably  
follows that David had actively worked 30 continuous days for GHC between  
November 9, 2008 (employment hire date) and January 1, 2009 (life insurance enrollment

1 date) and that he was eligible for life insurance coverage from Aetna. Otherwise, GHC  
2 would not have enrolled David in its life insurance plan and GHC would not have  
3 deducted and paid life insurance premiums on David to Aetna.  
4

5 During her March 6, 2014 Rule 30(b)(6) deposition, Dawn Chiasson testified as  
6 the corporate representative of Group Health Cooperative in pertinent part as follows:  
7

8 **0007**

9 19 Q. I understand, Ms. Chiasson, that you are  
10 20 appearing today on behalf of Group Health  
11 21 Cooperative.  
12 22 Is that correct?  
13 23 A. Yes, it is.

14 **0009**

15 1 Q. What is your position or job with Group Health  
16 2 Cooperative, Ms. Chiasson?  
17 3 A. I am a senior benefit analyst at Group Health.  
18 4 Q. As senior benefit analyst for Group Health, do  
19 5 you deal with life insurance benefits for its  
20 6 employees?  
21 7 A. Yes, I do.

22 **0010**

23 12 Q. Did you ever work on any matters involving David  
24 13 Meunier in your position as senior benefit  
25 14 analyst?  
26 15 A. Yes, I did.

27 **0014**

28 11 Q. Exhibit 39, does it have on the bottom the Bates  
29 12 stamp number of AET, short for Aetna, 000151?  
30 13 A. Yes, it does.  
31 14 Q. And could you tell us what is this document?  
32 15 A. This is a screen print of our Lawson HRIS system  
33 16 and specifically our -- the life insurance  
34 17 benefit that it appears Mr. Meunier was enrolled  
35 18 in.

36 **0018**

37 10 Q. All right. What does "employee life benefits"

1 11 mean? Can you describe it in particularity.  
2 12 please --  
3 15 A. Sure. It involves accidental death and  
4 16 dismemberment -- we have an accident -- a basic  
5 17 accidental death and dismemberment policy; we  
6 18 have a basic life policy; and, in this case,  
7 19 David was -- had -- it looks like he had elected  
8 20 a supplemental life benefit as well. That is a  
9 21 voluntary benefit. The two basics employer-  
10 22 covered and employer-paid, the supplemental  
11 23 benefit is employee-paid.  
**0019**  
12 7 Q. The "basic life" refers to a life insurance  
13 8 benefit provided to employees of Group Health;  
14 9 is that correct?  
15 10 A. That is correct.  
16 11 Q. Does this document, Exhibit 39, show that  
17 12 David A. Meunier was covered for the basic life  
18 13 insurance benefit provided by Group Health to  
19 14 its employees?  
20 19 A. Group Health does not make coverage decisions.  
21 20 We do enrollment -- we handle the enrollment  
22 21 piece, and it does appear that David Meunier was  
23 22 enrolled in the basic life benefit and the  
24 23 supplemental life benefit and the accidental --  
25 24 the basic accidental death and dismemberment  
25 25 benefit.  
**0020**  
1 1 Q. "Enrollment" means what with  
2 2 respect to an employee of Group Health  
3 3 Cooperative like David Meunier?  
4 4 A. "Enrollment" means that they were eligible for  
5 5 benefits, that they actually took steps to elect  
6 6 those benefits.  
7 7 So, in this instance, David Meunier was an  
8 8 employee of Group Health and took active steps  
9 9 to enroll in benefits.  
10 10 Q. So, as we sit here today, it is clear that  
11 11 David A. Meunier was enrolled as an employee of  
12 12 Group Health Cooperative in its basic life  
13 13 insurance benefit program, correct?  
28

1           14           A.     It appears that he did enroll, yes.  
2           15           Q.     The premium for the basic life insurance  
3           16                         coverage of David Meunier was paid by his  
4           17                         employer, Group Health; is that correct?  
5           18           A.     For the -- I'm sorry, for the basic life  
6           19                         benefit?  
7           20           Q.     Yes.  
8           21           A.     Yes, it would have been if he was -- if he was  
9           22                         enrolled in the coverage, then, yes, that would  
10           23                         have been paid for by Group Health.  
**0023**  
11           Q.     Do you know what Exhibit 31 is -- Exhibit 21 is,  
12                         excuse me?  
13           A.     It's the 30(b)(6) deposition document.  
14           Q.     And did you review that before you came to  
15                         testify today?  
16           A.     I did.  
17           Q.     Do you see Paragraph 4 on the top of Page 3 of  
18                         Exhibit 21?  
19           A.     Which page? Line 4, is that what you're  
20                         referring to?  
21           Q.     I'll read it out loud. "Was David covered for  
22                         group life insurance while he was employed by  
**0024**  
23           1                         GHC?"  
24           2                         Do you see that?  
25           3           A.     I do see that.  
26           4           Q.     Are you prepared to testify as the 30(b)(6)  
27           5                         designee of Group Health today about that  
28           6                         subject matter?  
29           7           A.     I am.  
30           8           Q.     So I ask you: Was David covered for group life  
31           9                         insurance while he was employed by Group Health  
32           10                         Cooperative?  
33           11           A.     I believe I answered the question when I told  
34           12                         you that I -- I don't make coverage  
35           13                         determinations. I can see enrollment, and it  
36           14                         appears that he was enrolled in the benefit. I  
37           15                         don't know if he was covered.  
**0026**  
38           1           Q.     You said David Meunier also enrolled for



17 coverage.  
18 Q. Did Group Health Cooperative withhold premiums  
19 from David Meunier's pay as an employee of Group  
20 Health and pay those premiums to Aetna for  
21 David's supplemental life insurance coverage?  
22 A. Again, I don't do the billing for benefits, but  
23 I would assume that if he was enrolled and --  
24 and -- and active on the plan, then, yes, those  
25 premiums would have been paid for that coverage.  
**0031**  
3 Q. What is the "Start" date and the "Stop"  
4 date for David Meunier's basic life insurance  
5 coverage as shown by Exhibit 39?  
6 A. It appears that he was enrolled from January 1st  
7 of 2009 to February 28th of 2009.  
8 Q. And premiums were paid based on  
9 that enrolled life insurance coverage to Aetna;  
10 is that correct?  
11 A. Again, I don't do benefit billing, but, to the  
12 best of my knowledge, that would be the case.  
**0037**  
13 Q. It's my understanding that your testimony today  
14 is that David Meunier was enrolled as an  
15 employee of Group Health Cooperative for both  
16 the basic life component of the benefit coverage  
17 and the supplemental life component of the  
18 benefit coverage.  
19 A. Is my understanding correct?  
20 Q. It appears that he was enrolled in those  
21 benefits, as well as the basic AD&D benefit.  
**0038**  
22 Q. And we do know today as we sit here that Group  
23 Health did pay premiums to Aetna Life Insurance  
24 Company for David Meunier's group life coverage,  
25 basic life coverage, and his supplemental  
1 individual life coverage, correct?  
2 A. It appears that he was enrolled, and if he was  
3 enrolled, then my assumption would be that, yes,  
4 premiums would have been paid for that coverage.  
5 Q. To Aetna Life Insurance Company?  
6 A. To Aetna Life Insurance Company.  
7

1                   **0039**  
2                   **0047**

3                   Q.                   When David Meunier underwent surgery on  
4                   November 26th, 2008, he was enrolled for the  
5                   basic life insurance benefit and the  
6                   supplemental life insurance benefit of Group  
7                   Health.

8                   Isn't that what you told me before?

9                   A.                   No. His enrollment did not start until  
10                   January 1st of 2009.

11                   Q.                   What is the basis for your assertion that his  
12                   enrollment did not start until January 1, 2009?

13                   A.                   Because if he was -- if he was enrolled in the  
14                   benefit, then benefits don't start until the  
15                   first of the month following one month of

16                   **0048**

17                   Q.                   continuous employment.

18                   **0058**

19                   Q.                   Does 1.0 FTE mean 100 percent full-time?

20                   A.                   Yes. It means he worked 40 hours per week.  
21                   Q.                   Full-time, right?

22                   A.                   Correct.

23                   Q.                   The next sentence says, "To participate in a  
24                   benefit plan, new employees must enroll within  
25                   30 days of hire into an eligible position."

26                   Q.                   Did I read that correctly?

27                   A.                   Yes.

28                   Q.                   Is it your testimony today that David A. Meunier  
1                   enrolled into the basic life and supplemental  
2                   life insurance benefit plans of Group Health  
3                   Cooperative on January 1, 2009?

4                   A.                   He was -- he appeared to be enrolled in our  
5                   plans effective January 1 of 2009. The date  
6                   that he actively enrolled would have been a  
7                   different date.

8                   Q.                   Before or after January 1 of '09?

9                   A.                   Before.

10                   Q.                   What?

11                   A.                   Before, within 30 days of his hire.

12                   Q.                   Did David Meunier enroll in the basic life and  
13                   supplemental life insurance benefit plan of

1 24 Group Health within 30 days of his hire date of  
2 25 Monday, November 10th, 2008?

3 **0059**

4 1 A. Yes, he did.  
5 2 Q. What is the basis for that statement?  
6 3 A. Um, he wouldn't have been enrolled if he didn't  
7 4 actively do something to effectively enroll in  
8 5 coverage. He had to take an action.

9 **0077**

10 21 Q. As you sit here today, do you deny the fact  
11 22 that David Meunier had a laptop computer of  
12 23 Group Health Cooperative until his wife, now his  
13 24 widow, physically gave it back to Pat Anunsen at  
14 25 the demand of Pat Anunsen on January 16th of

15 **0078**

16 1 A. '09?  
17 2 Q. I cannot confirm or deny that.  
18 3 A. Likewise, you cannot confirm or deny whether  
19 4 David A. Meunier used his Group Health  
20 5 Cooperative laptop computer between November 21,  
21 6 2008, and January 16, 2009, when the laptop  
22 7 computer was returned to Mr. Anunsen, is that  
23 8 not correct?  
24 9 A. I would not be able to confirm or deny that.  
25 10 Q. Can you confirm or deny the fact that David  
11 Meunier and Patrick Anunsen had agreed, as  
12 employee and boss, that David Meunier could take  
13 Thanksgiving weekend off in order to spend it  
14 with his family and to celebrate his daughter's  
15 birthday that happens to fall within a day or  
16 two of the holiday? Can you deny that fact?  
17 A. I cannot confirm or deny that.  
18 Q. Do you ever take some time off from work from  
19 your benefit analyst position at Group Health to  
20 spend Thanksgiving weekend with your family?  
21 A. Yes.  
22 Q. And when you spend Thanksgiving weekend from  
23 time to time with your family, you are still  
24 considered an active full-time employee of Group  
25 Health, entitled to your life insurance benefit

26

27

28

1                   **0079**

2                   A.                   coverage, right?  
3                   Q.                   As long as I'm actively employed, yes.  
4                   But you don't know whether David Meunier, after  
5                   his surgery on November 26, 2009, worked for  
6                   Group Health using his laptop, do you?  
7                   A.                   I do not -- I cannot confirm or deny the dates  
8                   that he would have used that laptop.

9                   16

10                  19

11                  24

12                  Q.                   You do not know whether David  
13                  Meunier, after he got out of the hospital,

14                  **0080**

15                  1                   continued to work for Group Health using his  
16                  2                   laptop computer, do you?

17                  3                   A.                   I don't. His -- his boss asked him not to, or  
18                  4                   at least said, "Your access has been turned  
19                  5                   off," but, no, I cannot confirm or deny he had  
20                  6                   done any work at that point.

21                  7                   Q.                   You do a lot of work as a senior benefit analyst  
22                  8                   for Group Health where you're not necessarily  
23                  9                   using your access to the computer system 24/7,  
24                  10                  right?

25                  11                  A.                   Sure.

26                  12                  Q.                   There's times when you actively work full-time  
27                  13                   for Group Health when you're not using computer  
28                  14                   access whatsoever?

1                   15                  A.                   Sure, if I'm in a meeting or attending functions  
2                   16                  or what have you.

3                   17                  Q.                   Phone calls, right?

4                   18                  A.                   Sure.

5                   25                  Q.                   And, in fact, Group Health made payroll

6                   **0085**

7                   1                   deductions from David Meunier's earnings to pay  
8                   2                   life insurance benefit premiums for his life  
9                   3                   insurance benefit expenses to Aetna; is that  
10                  4                   correct?

11                  8                   A.                   It's my understanding that deductions were taken  
12                  9                   for the period of time that he was on short-term  
13                  10                  disability, which would have been from  
14                  11                  January 1st of 2009 through February 28th of

1 12 2009. Deductions are taken in the month in  
2 13 which you are enrolled in the benefit.  
3 14 Q. And that time period that you just told us  
4 15 exceeded 30 continuous days, correct?  
5 16 A. From January 1st through February 28th of 2009  
6 17 is more than 30 days, correct.  
7 **0086**  
8 11 Q. That statement does not indicate that David  
9 12 Meunier's Group Health Cooperative laptop  
10 13 computer was not working, correct?  
11 14 A. That's correct.  
12 **0087**  
13 12 Q. You do not know whether David Meunier's log-on  
14 13 was subsequently reactivated or not, correct?  
15 16 A. I have not seen any documentation to state that  
16 17 it had been reinstated.  
17 18 Q. You do not know one way or the  
18 19 other?  
19 20 A. That's correct.  
20 **0098**  
21 7 Q. Ms. Chiasson, if we  
22 8 could look at Exhibit 27, please.  
23 9 A. Sure. [The witness complies.] Okay.  
24 10 Q. Could you identify that for us, please?  
25 11 A. It is a Group Health Earnings Statement for  
26 12 David Meunier.  
27 13 Q. And this is for the pay period of December 21,  
28 14 '08, through January 5 of 2009; is that correct?  
29 15 A. Correct.  
30 16 Q. All right. Now, does this show that David  
31 17 Meunier has life insurance benefit coverage  
32 18 through Group Health?  
33 19 A. It shows that he was -- he had a deduction taken  
34 20 for a base life insurance benefit for this pay  
35 period.  
36 **0099**  
37 16 Q. The next one is "GTL," and someone has written  
38 17 in handwriting, I don't know who, "Group Term  
39 18 Life?"  
40 19 A. Right. It stands --  
41 20 Q. Is "GTL" an abbreviation for group term life?

1           21           A.     It is, and this would be in recognition that  
2           22            there is imputed income value for a life  
3           23            benefit.  
4           24           Q.     All right. So this confirms that David Meunier  
5           25            was enrolled with Group Health for its base life  
6           **0100**  
7           1           A.     insurance benefit?  
8           2           It confirms that he had a deduction taken -- or,  
9           3            sorry, an employer contribution for a base life  
10          4            benefit.  
11          5           Q.     And the base life benefit for which the  
12          6            employer, Group Health, contributed was a group  
13          7            life insurance benefit --  
14          8           A.     That is correct.  
15          9           Q.     -- as opposed to an individual life insurance  
16          10          benefit?  
17          11          A.     That is correct.  
18          **0101**  
19          7           Q.     Because David Meunier was enrolled for life  
20          8           insurance benefits, right?  
21          9           A.     We had enrollment for David Meunier, and we  
22          10          looked at those records, yes.

16           (Emphasis added.)  
17

18           Since the Aetna life insurance policy does not define what "active and  
19           continuous" employment is, Aetna is bound by GHC's January 1, 2009 life insurance plan  
20           enrollment determination on David. GHC's conduct is an admission that binds Aetna.  
21  
22           Aetna accepted the life insurance premiums paid on David and Aetna has not refunded  
23           them.

24           The U.S. Department of Labor recognizes that life insurance is not considered  
25           "medical care," nor are disability benefits; COBRA does not cover plans that provide  
26           only life insurance or disability benefits.  
27  
28

U.S. Department of Labor Employee  
Benefits Security Administration (EBSA),  
An Employee's Guide to Health Benefits  
Under COBRA: *The Consolidated Omnibus  
Budget Reconciliation Act of 1985* (Nov. 2012),  
[www.dol.gov/ebsa/publications/cobraemployee.html](http://www.dol.gov/ebsa/publications/cobraemployee.html).

This booklet explains your rights under COBRA to a temporary extension of employer-provided group health coverage, called COBRA continuation package.

9       David and Mary Jane Meunier reasonably understood the COBRA election notice  
10      sent by Benefit Concepts, Inc., GHC's COBRA vendor, to deal with health insurance  
11      conversion, not life insurance conversion. GHC and Aetna breached their fiduciary duty  
12      to properly assist the Meuniers in converting David's group life insurance coverage to  
13      individual life insurance coverage.

Respectfully submitted this 21st day of March, 2014.

/s/*Jeffrey P. Clark*  
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